

## APPENDIX I

### REFERENCES

*Accounting for Claims, Defense Appropriation Funds*, JAGINST 7100.3A, Office of the Judge Advocate General, Alexandria, VA, 1986.

*Administrative Processing and Consideration of Claims on Behalf of and Against the United States*, JAGINST 5890.1, Office of the Judge Advocate General, Alexandria, VA, 1991.

*Alcohol and Drug Abuse Prevention and Control*, OPNAVINST 5350.413, Chief of Naval Operations, Washington, DC, 1990.

*Compliance of DOD Members, Employees and Family Members Outside the U.S. with Court Orders*, DOD Directive 5525.9, implemented by SECNAVINST 5920.9, Office of the Secretary of the Navy, Washington, DC, 1990.

*Criminal Activity, Disciplinary Infractions and Court-Martial Report (NAVJAG 5800.9 and 5800.9A Rev. 6/85)*, JAGINST 5800.9, Office of the Judge Advocate General, Alexandria, VA, 1987.

*Department of the Navy Clemency and Parole Review*, SECNAVINST 5815.3G, Office of the Secretary of the Navy, Washington, DC, 1985.

*Department of the Navy Corrections Manual*, SECNAVINST 1640.9A, Office of the Secretary of the Navy, Washington, DC, 1993.

*Department of the Navy Correspondence Manual*, SECNAVINST 5216.5C, Office of the Secretary of the Navy, Washington, DC, 1983.

*Department of the Navy Directives Issuance System*, SECNAVINST 5215.1C, Office of the Secretary of the Navy, Washington, DC, 1970.

*Department of the Navy File Maintenance Procedures and Standard Subject Identification Codes*, SECNAVINST 5210.11D, Office of the Secretary of the Navy, Washington, DC, 1987.

*Department of the Navy Freedom of Information Act (FOIA) Program*, SECNAVINST 5720.42E, Office of the Secretary of the Navy, Washington, DC, 1991.

*Department of the Navy Information and Personnel Security Program Regulation*, OPNAVINST 5510.1H, Chief of Naval Operations, Washington, DC, 1988.

*Enlisted Administrative Separations*, SECNAVINST 1910.4A, Office of the Secretary of the Navy, Washington, DC, 1983.

*Field Law Library Program*, JAGINST 5070.1A, Office of the Judge Advocate General, Alexandria, VA, 1987.

*Joint Federal Travel Regulations (JFTR)*, Vol. I, NAVSO P6024, Per Diem, Travel and Transportation Allowance Committee, Alexandria, VA, 1986.

*Legal Assistance Officer's Desk and Form Book, Navy Revisions of Army Legal Assistance Deskbook*, JAG Memorandum 5801, Vol. I, ACIL-ST-268, Office of the Judge Advocate General, Alexandria, VA, 1985.

*Manual for Courts-Martial (MCM)*, United States, 1984.

*Manual of Naval Total Force Manpower Policies and Procedures*, OPNAVINST 1000.16G, Chief of Naval Operations, Washington, DC, 1990.

*Manual of the Judge Advocate General (JAGMAN)*, JAGINST 5800.7C, Office of the Judge Advocate General, Alexandria, VA, 1991.

*Master-at-Arms 2, 1 & C*, Vol. I, NAVEDTRA 10255, Naval Education and Training Program Management Support Activity, Pensacola, FL, 1985.

*Master-at-Arms 2, 1 & C*, Vol. II, NAVEDTRA 10256, Naval Education and Training Program Management Support Activity, Pensacola, FL, 1985.

*Military Justice Regulations*, JAGINST 5810.2, Office of the Judge Advocate General, Alexandria, VA, 1990.

*Mission and Function of Naval Legal Service Office*, NAVLEGSVCCOMINST 5450.1C, Naval Legal Service Command Alexandria, VA, 1987.

*Naval Justice School Civil Law Study Guide*, Newport, RI, 1991.

*Naval Justice School Commander Handbook*, Newport, RI, 1991.

*Naval Justice School Court-Reporter Desk Book*, Newport, RI, 1989.

*Naval Justice School Criminal Law Study Guide*, Newport, RI, 1990.

*Naval Justice School Evidence Study Guide*, Newport, RI, 1990.

*Naval Justice School Military Justice Study Guide*, Newport, RI, 1990.

*Naval Justice School Staff Judge Advocate's Handbook*, Newport, RI, 1989.

*Naval Legal Service Command Productivity Report*, NAVLEGSVCCOMINST 5800.3A, Naval Legal Service Command, Alexandria, VA, 1985.

*Naval Legal Service Office Manual*, NAVLEGSVCCOMINST 5800.1B, Naval Legal Service Command, Alexandria, VA, 1988.

*Naval Military Personnel Manual (MILPERSMAN)*, NAVPERS 15560C, Bureau of Naval Personnel, Washington, DC, 1991.

*Naval Telecommunications Procedures*, NTP-3(I), Commander, Naval Computer and Telecommunications Command, Washington, DC, 1990.

*Navy and Marine Corps Records Disposition Manual*, SECNAVINST 5212.5C, Office of the Secretary of the Navy, Washington, DC, 1985.

*Navy Appellate Leave*, NAVMILPERSCOMINST 1900.2A, Bureau of Naval Personnel, Washington, DC, 1990.

*Navy Customer Service Manual*, NAVEDTRA 10119-B1, Naval Education and Training Program Management Support Activity, Pensacola, FL, 1988.

*Navy Enlisted Performance Evaluation (Eval) Manual*, BUPERINST 1616.9A, Bureau of Naval Personnel, Washington, DC, 1992.

*Navy Pay and Personnel Manual (PAYPERSMAN)*, NAVSOP-3050, Office of the Comptroller, Washington, DC, 1973.

*Procedures Applicable to Courts of Inquiry and Administrative Fact-Finding Bodies That Require a Hearing*, JAGINST 5830.1, Office of the Judge Advocate General, Alexandria, VA, 1990.

*Standard Organization and Regulations of the U.S. Navy*, OPNAVINST 3120.32B, Chief of Naval Operations, Washington, DC, 1986.

*Standardization of General Courts-Martial and Special Courts-Martial Records of Trial*, JAGINST5813.1, Office of the Judge Advocate General, Alexandria, VA, 1983.

*Yeoman 3*, NAVEDTRA 10298, Naval Education and Training Program Management Support Activity, Pensacola, FL, 1991.

*Yeoman 2*, NAVEDTRA 10299, Naval Education and Training Program Management Support Activity, Pensacola, FL, 1991.



## APPENDIX II

# GLOSSARY OF WORDS AND PHRASES

The following words and phrases are those most frequently encountered in military justice that have special connotations in military law. The list is by no means complete. It is designed solely as a ready reference for the meaning of certain words and phrases. Where it has been necessary to explain a word or phrase in the language of or in relation to a rule of law, no attempt has been made to set forth a definitive or comprehensive statement of such rule of law.

**ABANDONED PROPERTY**—Property to which the owner has relinquished all rights, title, claims, and possession with intention of not reclaiming it or resuming ownership, possession, or enjoyment.

**ABET**—To encourage, incite, or set another on to commit a crime, Article 77, UCMJ.

**ACCESSORY AFTER THE FACT**—Any person subject to the Code who, knowing that an offense punishable by the Code has been committed, receives, comforts, or assists the offender in order to hinder or prevent the offender's apprehension, trial or punishment. NOTE: Article 78, UCMJ, deals with accessories.

**ACCESSORY BEFORE THE FACT**—One who counsels, commands, procures, or causes another to commit an offense—whether present or absent at the commission of the offense. NOTE: Under Article 77, UCMJ, an accessory before the fact is a principal.

**ACCUSATION**—A formal charge against a person, to the effect that the person is guilty of a punishable offense, laid before a court having jurisdiction to inquire into the alleged crime.

**ACCUSED**—One who is charged with an offense under the Code.

**ACCUSER**—Any person who signs and swears to charges; any person who directs that charges normally be signed and sworn to by another; and any other person who has an interest other than an official interest in the prosecution of the accused.

**ACQUITTAL**—The legal and formal certification of the innocence of a person who has been charged with a crime; a deliverance or setting free a person from a charge of guilt.

**ACTIVE DUTY**—The status of being in the active federal service of any of the armed forces under a competent appointment or enlistment or pursuant to a competent muster, order, call, or induction.

**ACTUAL KNOWLEDGE**—A state wherein the person in fact knows of the existence of an order, regulation, fact, and so forth, in question.

**ADDITIONAL CHARGES**—New and separate charges preferred after others have been preferred against the accused while the original charges are still pending.

**AD HOC**—For this; for this special purpose.

**AD INTERIM**—In the meantime. An officer “ad interim” is one appointed to fill a temporary vacancy.

**ADJOURNMENT**—The putting off or postponing of a trial until a stated time or indefinitely; a cessation of the proceedings for a period extending beyond the same day.

**ADJUDICATE**—To determine whether a claim is proper and decide what amount, if any, should be paid the claimant.

**ADMINISTRATIVE BOARD**—A board appointed to render findings based on facts pertaining, or believed to pertain, in a case and to recommend retention, separation, or suspension of separation, and the reason for separation and the characterization of service or description of separation.

**ADMINISTRATIVE SEPARATION**—A discharge or release from active duty upon expiration of enlistment or required period of service, or before, by administrative means and not by a court-martial.

**ADMIRALTY**—That body of law and regulation dealing with civil maritime cases.

**ADMISSION**—A self-incriminatory statement falling short of a complete acknowledgement of guilt.

**AD VALOREM**—According to value; ad valorem tax is a tax or duty upon the value of the article or thing subject to taxation.

**AFFIANT**—The person who makes and subscribes an affidavit.

**AFFIDAVIT**—A statement or declaration reduced to writing and confined by the party making it by an oath taken before a person who has authority to administer the oath.

**AGENT**—A person authorized by another to act for that person. One entrusted with another's business.

**AIDER AND ABETTOR**—One who shares the criminal intent or purpose of a perpetrator, and hence is liable as a principal, Article 77, UCMJ.

**ALIBI**—A defense that the accused could not have committed the offense alleged because the accused was somewhere else when the crime was committed.

**ALLEGATION**—The assertion, declaration, or statement of a party in a pleading of what the party expects to prove.

**ALLEGE**—To assert or state in a pleading; to plead in a specification.

**ALL WRITS ACT**—A federal statute, 28 U.S.C. § 1651(a) (1982), that empowers all courts established by Act of Congress, including the Court of Military Appeals, to issue such extraordinary writs as are necessary or appropriate in aid of their respective jurisdictions and agreeable to the usage and principles of law.

**APPEAL**—A complaint to a superior court of an injustice done or error committed by an inferior court whose judgment or decision the court above is called upon to correct or reverse. See Appellate Review.

**APPELLANT**—The party who takes an appeal from one court or jurisdiction to another.

**APPELLATE REVIEW**—The examination of the records of cases tried by courts-martial by proper reviewing authorities, including, in appropriate cases, the convening authority, the Court of Military Review, the Court of Military Appeals, the U.S. Supreme Court, and the Judge Advocate General.

**APPREHENSION**—The taking of a person into custody.

**APPROVED FINDINGS OF AN ADMINISTRATIVE BOARD**—Final approval of the findings of an administrative board rests with the separation authority and, unless the separation authority modifies the findings and recommendation, approval of the board's recommendations as to characterization or separation, or both, constitutes approval of such findings and recommendations.

**ARBITRATION**—The act of determining a decision in a controversy by a disinterested third party.

**ARRAIGNMENT**—The reading of the charge(s) and specification(s) to the accused or the waiver of their reading, coupled with the request that the accused plead thereto.

**ARREST**—Moral restraint imposed upon a person by oral or written orders of competent authority limiting the person's personal liberty pending disposition of charges. Arrest is not imposed as punishment for an offense.

**ARREST IN QUARTERS**—A moral restraint limiting an officer's liberty, imposed as a nonjudicial punishment by a flag or general officer in command.

**ARTICLE 15**—The Article of the UCMJ that grants the power of a commander to impose nonjudicial punishment.

**ARTICLE 32 INVESTIGATION**—See Pretrial Investigation.

**ARTICLE 39a SESSION**—A session of a court-martial called by the military judge, either before or after assembly of the court, without the members of the court being present, to dispose of matters not amounting to a trial of the accused's guilt or innocence.

**ASPORTATION**—A carrying away; felonious removal of goods; refers to one of the ways in which larceny under Article 121, UCMJ, may be committed.

**ASSAULT**—An attempt or offer with unlawful force or violence to do bodily harm to another, whether or not the attempt or offer is consummated, Article 128, UCMJ.

**ASSEMBLED**—A court is said to be assembled when its preliminary organization is complete, the members have gathered in the courtroom, and the presiding officer announces the court assembled.

**ATTEMPT**—An act, or acts, done with a specific intent to commit an offense under the Code, amounting to more than mere preparation, and tending but failing to effect the commission of such offense.

**ATTEST**—To signify by subscription of the signer's name that the signer has witnessed the execution of the particular instrument.

**ATTORNEY, POWER OF**—An instrument authorizing another to act as one's agent or attorney. The instrument by which authority of one person to act in place and stead of another as attorney in fact is set forth.

**AUTHENTICATION**—An official statement certifying that a writing is true and accurate.

**AUTHENTICITY**—The quality of being genuine in character, which in the law of evidence refers to a piece of evidence actually being what it purports to be.

**BAD-CONDUCT DISCHARGE**—One of two types of punitive discharges that may be awarded an enlisted member as a court-martial sentence; designed as a punishment for bad conduct, rather than as a punishment for serious offenses of either a civil or military nature; maybe awarded by GCM or SPCM.

**BAIL**—To procure the release of a person from legal custody, by undertaking that the person will appear at the time and place designated and submit to the jurisdiction and judgment of the court.

**BATTERY**—An assault in which the attempt or offer to do bodily harm is consummated by the infliction of that harm, Article 128, UCMJ.

**BEYOND A REASONABLE DOUBT**—The degree of persuasion based upon proof such as to exclude not every hypothesis or possibility of innocence, but any fair and rational hypothesis except that of guilt; not an absolute or mathematical certainty but a moral certainty.

**BIGAMY**—The criminal offense of willfully and knowingly contracting a second marriage (or going through the form of a second marriage) while the first marriage, to the knowledge of the offender, is still substituting and undissolved.

**BODILY HARM**—Any physical injury to or offensive touching of the person of another, however slight.

**BONA FIDE**—In good faith; actual; genuine.

**BREACH OF ARREST**—Going beyond the limits of arrest as set by orders, Article 95, UCMJ.

**BREACH OF PEACE**—An unlawful disturbance of the peace by an outward demonstration of a violent or turbulent nature, Article 116, UCMJ.

**BREAKING ARREST**—Going beyond the limits of arrest before being released by proper authority.

**BURGLARY**—The breaking and entering in the nighttime of the dwelling of another with intent to commit murder, manslaughter, rape, carnal knowledge, larceny, wrongful appropriation, robbery, forgery, maiming, sodomy, arson, extortion, or assault, Article 129, UCMJ.

**BUSINESS ENTRY**—Any writing or record, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence, or event, made in the regular course of any business, profession, occupation, or calling of any kind.

**CAPITAL OFFENSE**—An offense for which the maximum punishment includes the death penalty.

**CAPTAIN'S MAST**—The term applied, through tradition and usage in the Navy and Coast Guard, to nonjudicial punishment proceedings.

**CARNAL KNOWLEDGE**—An act of sexual intercourse under circumstances not amounting to rape, by a person with a female who is not his wife, and who has not attained the age of 16, Article 120, UCMJ.

**CASE LAW**—Law obtained from cases that have been decided.

**CAVEAT EMPTOR**—Let the buyer beware (or take care).

**CHALLENGE**—A formal objection to a member of a court or the military judge continuing as such in subsequent proceedings. May be either (1) a challenge for cause—such objections based on a fact or circumstance that has the effect of disqualifying the person challenged from further participation in the proceedings or (2) peremptory challenge—such objection is permitted without grounds or basis, except that the military judge cannot be peremptorily challenged.

**CHANGE OF VENUE**—Removal of a trial from one jurisdiction to another.

**CHARGE**—A formal statement of the Article of the UCMJ that the accused is alleged to have violated.

**CHARGE AND SPECIFICATION**—A description in writing of the offense that the accused is alleged to have committed; each specification, together with the charge under which it is placed, constitutes a separate accusation.

**CHARGE SHEET**—A two-page document, DD Form 458, that contains (1) information about the accused, (2) the charges and specifications, (3) the preferring of charges and their referral to a summary, special, or general court-martial; and (4) in the case of a summary court-martial, the record of trial.

**CHIEF WARRANT OFFICER**—A warrant officer of the armed forces who holds a commission or warrant in warrant officer grades W-2 through W-4.

**CIRCUMSTANTIAL EVIDENCE**—Testimony not based on actual personal knowledge or observation of the facts in controversy, but of other facts from which deductions are drawn, showing indirectly the facts sought to be proved.

**CLEMENCY**—Discretionary action by proper authority to reduce the severity of a punishment.

**CLOSED SESSIONS**—Those periods during a court-martial where the members or the military judge (in a judge alone case) is deliberating alone on findings and sentence.

**CODIFICATION**—Process of collecting and arranging the laws of a country or state into a code; for example, U.S. Code.

**COLLATERAL ATTACK**—An attempt to impeach or challenge the integrity of a court judgment in a proceeding other than that in which the judgment was rendered and outside the normal chain of appellate review.

**COLLISION**—Striking together of two objects, one of which may be stationary. The act of ships or vessels striking together. In its strict sense, collision means the impact of two vessels, both moving, and is distinguished from allision, which designates the striking of a moving vessel against one that is stationary.

**COMMAND**—(1) An order; (2) any demanding of another to do an act toward commission of a crime, Article 77, UCMJ.

**COMMANDING OFFICER**—A commissioned officer in command of a unit or units, an organization, or an area of the armed forces.

**COMMISSIONED OFFICER**—An officer of the naval service who holds a commission in an officer grade, chief warrant officer W-2, and above.

**COMMON TRIAL**—A trial in which two or more persons are charged with the commission of an offense or offenses that, although not jointly committed, were committed at the same time and place and are provable by the same evidence.

**COMPETENCY**—The presence of those characteristics, or the absence of those disabilities (for example, exclusionary rules), that renders a particular item of evidence fit and qualified to be presented in court.

**CONCURRENT JURISDICTION**—Jurisdiction that is possessed over the same parties or subject matter at the same time by two or more separate tribunals.

**CONCURRENT SERVICE OF PUNISHMENT**—Two or more punishments being served at the same time.

**CONFESSION**—An acknowledgement of guilt of an offense.

**CONFINEMENT**—The physical restraint of a person, imposed by either oral or written orders of competent authority, depriving a person of freedom.

**CONSECUTIVE SERVICE OF PUNISHMENT**—Two or more punishments being served in series, one after the other.

**CONSPIRACY**—A combination of two or more persons who have agreed to accomplish, by concerted action, an unlawful purpose or some purpose not in itself unlawful but by unlawful means, and the doing of some act by one or more of the conspirators to effect the object of that agreement.

**CONSTRUCTIVE ENLISTMENT**—A valid enlistment arising where the initial enlistment was void but the enlistee submits voluntarily to military authority, is mentally competent and at least 17 years old, receives pay, and performs duties.

**CONSTRUCTIVE KNOWLEDGE**—A state wherein a person is inferred to have knowledge of an order, regulation, or fact as a result of having a reasonable opportunity to gain such knowledge (for example, presence in an area where the relevant information was commonly available).

**CONTEMPT**—In military law, the use of any menacing words, signs, or gestures in the presence



of the court, or the disturbance of its proceedings by any riot or disorder.

**CONTINUANCE**—The adjournment or postponement of a case to another day or time.

**CONTRABAND**—Items, the possession of which is in and of itself illegal.

**CONVENING AUTHORITY**—The officer having authority to convene a court-martial and who convened the court-martial in question, or that officer's successor in command.

**CONVENING ORDER**—The document by which a court-martial is created, specifies the type of court, details the members, and, when appropriate, the specific authority by which the court is created.

**CORPUS DELICTI**—The body of a crime; facts or circumstances showing that the crime alleged has been committed by someone.

**COUNSELING**—Directly or indirectly advising or encouraging another to commit an offense, Article 77, UCMJ.

**COURT-MARTIAL**—A military court, convened under authority of the government and the UCMJ for trying and punishing offenses committed by members of the armed forces and other persons subject to military law.

**COURT-MARTIAL ORDER**—A published order announcing the results of a court-martial trial.

**COURT OF INQUIRY**—A formal administrative fact-finding body convened under the authority of Article 135, UCMJ, whose function it is to search out, develop, analyze, and record all available information relative to the matter under investigation.

**COURT OF MILITARY APPEALS**—The highest appellate court established under the UCMJ to review the records of certain trials by court-martial, consisting of three judges appointed from civil life by the President, by and with the advice and consent of the Senate, for a term of 15 years.

**COURT OF MILITARY REVIEW**—An intermediate appellate court established by each Judge Advocate General to review the record of certain trials by court-martial—formerly known as Board of Review.

**CREDIBILITY OF A WITNESS**—A witness' worthiness of belief.

**CROSS-EXAMINATION**—The examination of a witness at a trial or hearing, or at a deposition, by the party opposed to the one who produced him or her, upon his or her evidence given in the case-in-chief, to test its truth, to further develop it, or for other purposes.

**CULPABLE**—Deserving blame; involving the breach of a legal duty or the commission of a fault.

**CULPABLE NEGLIGENCE**—Culpable negligence is a degree of negligence greater than simple negligence. This form of negligence is also referred to as recklessness and arises whenever an accused recognizes a substantial unreasonable risk yet consciously disregards that risk.

**CUSTODY**—That restraint of free movement that is imposed by lawful apprehension.

**CUSTOM**—A practice that fulfills the following conditions: (a) it must be long continued; (b) it must be certain or uniform; (c) it must be compulsory; (d) it must be consistent; (e) it must be general; (f) it must be known; and (g) it must not be in opposition to the terms and provisions of a statute or lawful regulation or order.

**DAMAGE**—Any physical injury to property.

**DANGEROUS WEAPON**—A weapon used in such a manner that it is likely to produce death or grievous bodily harm.

**DECEIVE**—To mislead, trick, cheat, or to cause one to believe as true that which is false.

**DEFENSE COUNSEL**—The person who defends the accused in any proceeding.

**DEFERRAL**—Discretionary action by proper authority, postponing the running of the confinement portion of a sentence, together with a lack of any posttrial restraint.

**DEFRAUD**—To obtain, through misrepresentation, an article or thing of value and to apply it to one's own benefit or to the use and benefit of another—either permanently or temporarily.

**DEMONSTRATIVE EVIDENCE**—Anything such as charts, maps, photographs, models, and drawings used to help construct a mental picture of a location or object that is not readily available for introduction into evidence.

**DEPOSITION**—The testimony of a witness taken out of court, reduced to writing, under oath or affirmation, before a person empowered to

administer oaths, in answer to interrogatories (questions) and cross-interrogatories submitted by the parties desiring the deposition and the opposite party, or based on oral examination by counsel for the accused and the prosecution.

**DERELICTION IN THE PERFORMANCE OF DUTIES**—Willfully or negligently failing to perform assigned duties or performing them in a culpably inefficient manner.

**DESIGN**—On purpose, intentionally, or according to plan and not merely through carelessness or by accident; specifically intended.

**DESTROY**—Sufficient injury to render property useless for the purpose that it was intended, not necessarily amounting to complete demolition or annihilation.

**DETENTION OF PAY**—A less severe form of punishment than a forfeiture in that the amount detained is ultimately returned to the accused when the accused is separated from service, or within a specific period of 1 year or less.

**DIRECT EVIDENCE**—Evidence that tends directly to prove or disprove a fact in issue.

**DISCHARGE**—Complete severance from all naval status gained by the enlistment or induction concerned.

**DISCOVERY**—The right to examine information disscsscd by the opposing side before or during trial.

**DISHONORABLE DISCHARGE**—The most severe punitive discharge; reserved for those warrant officers (W-1) and enlisted members who should be separated under conditions of dishonor, after having been convicted of serious offenses of a civil or military nature warranting severe punishment; it may be awarded only by a GCM.

**DISMISSAL**—A court-martial punishment of separation from the service with dishonor. Only officers, commissioned warrant officers, cadets, and midshipmen may receive a dismissal and it can only be awarded by a GCM. It is considered the equivalent of a dishonorable discharge.

**DISORDERLY CONDUCT**—Behavior of such a nature as to affect the peace and quiet of persons who may witness the same and who may be disturbed or provoked to resentment thereby.

**DISRESPECT**—Words, acts, or omissions that are synonymous with contempt and amount to behavior

or language that detracts from the respect due the authority and person of a superior.

**DOCUMENTARY EVIDENCE**—Evidence supplied by writings and documents.

**DOMINION**—Control of property; possession of property with the ability to exercise control over it.

**DRUNKENNESS**—(1) As an offense under the UCMJ, intoxication that is sufficient sensibly to impair the rational and full exercise of the mental and physical faculties that may be caused by liquor or drugs; (2) as a defense in rebuttal of the existence of a criminal element involving premeditation, specific intent, or knowledge, intoxication that amounts to a loss of reason preventing the accused from harboring the requisite premeditation, specific intent, or knowledge; (3) as a defense to general intent offenses, involuntary intoxication that amounts to a loss of reason preventing the accused from knowing the nature of his or her act or the natural and probable consequence thereof.

**DUE PROCESS**—A course of legal proceedings according to those rules and principles that have been established in our system of jurisprudence for the enforcement and protection of private rights; such an exercise of the powers of the government as the settled maxims of law permit and sanction, and under such safeguards for the protection of individual rights as those maxims prescribe.

**DURESS**—Unlawful constraint on a person whereby the person is forced to do some act that he or she otherwise would not have done.

**DYING DECLARATION**—A statement by a victim, concerning the circumstances surrounding his or her death, made while in extremis and while under a sense of impending death and without hope of recovery.

**ELEMENTS**—The essential ingredients of an offense that are to be proved at the trial; the acts or omissions that form the basis of any particular offense,

**ENLISTED PERFORMANCE EVALUATION SYSTEM**—The formal servicewide rating system used to record an individual's fitness for service, performance of duties, and conduct based on alphanumerical scores accumulated in the formal servicewide rating system. The performance and conduct scores of an individual as recorded during the current enlistment are used in determining the characterization of service and reenlistment eligibility.

**ENTRAPMENT**—A defense available when actions of an agent of the government intentionally instill in the mind of the accused a disposition to commit a criminal offense, when the accused has no notion, predisposition, or intent to commit the offense.

**ENTRY LEVEL STATUS**—Upon enlistment, a member qualifies for entry level status during either (1) the first 180 days of continuous active military service or (2) the first 180 days of continuous active service after a break of more than 92 days of active service. A member of a Reserve component who is not on active duty or who is serving under a call or order to active duty for 180 days or less begins entry level status upon enlistment in a Reserve component.

**ERROR**—A failure to comply with the law in some way at some stage of the proceedings.

**EVIDENCE**—Any species of proof, or probative matter, legally presented at trial, through the medium of witnesses, records, documents, concrete objects, demonstrations, and so forth, for the purpose of inducing belief in the minds of the triers of fact.

**EXCULPATORY**—Anything that would exonerate a person of wrongdoing.

**EXECUTION OF HIS OR HER OFFICE**—Engaging in any act or service required or authorized to be done by statute, regulation, or the order of a superior.

**EX POST FACTO LAW**—A law passed after the occurrence of a fact or commission of an act that makes the act punishable, imposes additional punishment, or changes the rules of evidence to the disadvantage of a party.

**EXTENUATION**—Information that renders a crime less heinous than it would be without it and is presented in an effort to lessen the punishment that could be awarded at a court-martial or a nonjudicial punishment proceeding.

**EXTRA MILITARY INSTRUCTION**—Extra tasks assigned to one exhibiting behavioral or performance deficiencies for the purpose of correcting those deficiencies through the performance of the assigned tasks; also known as additional military duty or additional military instruction.

**FEIGN**—To misrepresent by a false appearance or statement; to pretend, to simulate, or to falsify.

**FINDINGS**—The determination of the issue as to whether an accused is guilty or innocent.

**FINE**—A type of court-martial punishment in the nature of a pecuniary judgment against an accused, which, when ordered executed, makes him or her immediately liable to the United States for the entire amount of money specified.

**FORFEITURE OF PAY**—A type of court-martial or nonjudicial punishment depriving the accused of all or part of the accused's pay.

**FORMER JEOPARDY**—A defense in bar of trial that no person will be tried for the same offense by the same sovereign a second time without his or her consent; also known as double jeopardy.

**FORMER PUNISHMENT**—A defense in bar of trial that no person may be tried by court-martial for a minor offense for which punishment under Article 15, UCMJ, has been imposed.

**FORMER TESTIMONY**—Testimony of a witness given in a civil or military court at a former trial of the accused, or given at a formal pretrial investigation of an allegation against the accused, in which the issues were substantially the same.

**FRISK**—Contact of the outer clothing of a person to detect by the sense of touch whether a concealed weapon is being carried.

**GENERAL COURT-MARTIAL**—The highest trial court within the military judicial system.

**GENERAL DISCHARGE**—An administrative discharge given to military personnel who do not qualify for an honorable discharge.

**GRANT OF IMMUNITY**—A promise of immunity from prosecution in return for courtroom testimony.

**GRIEVOUS BODILY HARM**—A serious bodily injury; does not include minor injuries, such as a black eye or a bloody nose, but does include fractured or dislocated bones, deep cuts, torn members of the body, serious damage to internal organs, and other serious bodily injuries.

**GROSS NEGLIGENCE**—A wanton, careless, and reckless disregard of the rights and safety of others; an utter indifference to the consequences of one's actions; a total abandonment of the standard of reasonable care coupled with a wanton disregard for the safety of others; that degree of negligence that is substantially higher in magnitude than simple inadvertence, but falls short of intentional wrong.

**HABEAS CORPUS**—"You have the body"; an order from a court of competent jurisdiction that requires the custodian of a prisoner to appear before the court to show cause why the prisoner is confined or detained.

**HARMLESS ERROR**—An error of law that does not materially prejudice the substantial rights of the accused.

**HEARSAY**—An assertive statement, or conduct, that is offered in evidence to prove the truth of the assertion, but that was not made by the declarant while a witness before the court in the hearing in which it is offered.

**IMPROVIDENT PLEA**—A plea of guilty that cannot be accepted if (1) the presiding officer is not satisfied that the accused understands the meaning and effect of his or her pleas, or (2) the elements of the offense have not been admitted, or (3) the accused is not convinced of his or her own guilt.

**INCAPACITATION**—The physical state of being unfit or unable to perform properly.

**INCUPLATORY**—Anything that implicates a person in a wrongdoing.

**INDECENT**—An offense to common propriety; offending against modesty or delicacy; grossly vulgar or obscene.

**INDIVIDUAL MILITARY COUNSEL**—Counsel requested specifically by the accused or respondent to represent them before a court-martial or administrative board instead of the appointed counsel.

**INFERENCE**—A fact deduced from another fact or facts shown by the state of the evidence.

**INFORMANT**—A person who has furnished information resulting in an investigation of a possible violation of law to a person whose official duties include the discovery, investigation, or prosecution of a case.

**IN LOCO PARENTIS**—In place of a parent. Used to signify that a person other than the parent exercises rights and responsibilities over a child.

**INSANITY**—See Mental Capacity and Mental Responsibility.

**INSPECTION**—An official examination of persons or property to determine the fitness or readiness of a person, organization, or equipment, not made with a view to any criminal action.

**INTENTIONALLY**—Deliberately and on purpose; through design, or according to plan, and not merely through carelessness or by accident.

**INTERROGATION**—In criminal law, the process of questions propounded by police to persons arrested or suspected to seek solutions of crime.

**IPSO FACTO**—By the very fact itself.

**JOINT OFFENSE**—An offense committed by two or more persons acting together in pursuance of a common intent.

**JOINT TRIAL**—The trial of two or more persons charged with committing a joint offense.

**JURISDICTION**—The power of a court to hear and decide a case and to award any appropriate punishment.

**KNOWINGLY**—With knowledge; consciously, intelligently.

**LASCIVIOUS**—Tending to excite lust; obscene; relating to sexual impurity; tending to deprave the morals with respect to sexual relations.

**LEGAL ADVISOR**—A lawyer, uniformed or civilian, under the professional supervision of either the Judge Advocate General or General Counsel of the Navy, certified under or otherwise meeting the professional requirements of Article 27(b), UCMJ.

**LESSER INCLUDED OFFENSE**—An offense necessarily included in the offense charged; an offense containing some but not all of the elements of the offense charged, so that if one or more of the elements of the offense charged are not proved, the evidence may still support a finding of guilty of the included offense.

**LEWD**—Lustful or lecherous; incontinence earned on in a wanton manner.

**MATTER IN AGGRAVATION**—Any circumstance attending the commission of a crime that increases its enormity.

**MATTER IN EXTENUATION**—Any circumstance serving to explain the commission of the offense, including the reasons that actuated the accused, but not extending to a legal justification.

**MATTER IN MITIGATION**—Any circumstance having for its purpose the lessening of the punishment to be awarded by the court and the furnishing of grounds for a recommendation for clemency.

**MENTAL CAPACITY**—The ability of the accused at the time of trial to understand the nature of the proceedings against him or her and to conduct or cooperate intelligently in his or her defense.

**MENTAL RESPONSIBILITY**—The ability of the accused at the time of the commission of an offense to appreciate the nature and quality of the wrongfulness of his or her acts.

**MILITARY DUE PROCESS**—Due process under protections and rights granted military personnel by the Constitution or laws enacted by Congress.

**MILITARY JUDGE**—A commissioned officer, certified as such by the respective Judge Advocates General, who presides over all open sessions of the court-martial to which he or she is detailed.

**MILITARY RECORD**—An individual's overall performance record while a member of the naval and military services of the United States including personal conduct.

**MINOR OFFENSE**—An offense for which confinement for less than 1 year is authorized; generally it is also misconduct not involving moral turpitude or any greater degree of criminality than is involved in the average offense tried by summary court-martial.

**MISTRIAL**—Discretionary action of the military judge, or the president of a special court-martial without a military judge, in withdrawing the charges from the court where such action appears necessary in the interest of justice because of circumstances arising during the proceedings that cast substantial doubt upon the fairness of the trial.

**MITIGATION**—Action by proper authority reducing punishment awarded at NJP or by court-martial.

**MORAL TURPITUDE**—An act of baseness, vileness, or depravity in private or social duties, which a man owes to fellowmen or to society in general, contrary to the accepted and customary rule of right and duty between man and man.

**MOTION TO DISMISS**—A motion raising any defense or objection in bar of trial.

**MOTION TO GRANT APPROPRIATE RELIEF**—  
A motion to cure a defect of form or substance that impedes the accused in properly preparing for trial or conducting his or her defense.

**MOTION TO SEVER**—A motion by one or more to two co-accuseds that they be tried separately from the other or others.

**NAVET**—A prior service veteran whose last tour of active duty or active duty for training was in the USN or USNR, who has been discharged or released for more than 2 hours, and who has completed a minimum of 180 consecutive days of active duty.

**NEGLECT**—Omission or failure to do an act or perform a duty due to want of due care or attention.

**NEGLIGENCE**—Unintentional conduct that falls below the standards established by law for the protection of others against unreasonable risk of harm. The failure of a person to exercise the care that a reasonably prudent person would exercise under similar circumstances; something that a reasonable man, guided by those ordinary considerations that ordinarily regulate human affairs, would or would not do.

**NONJUDICIAL PUNISHMENT**—Punishment imposed under Article 15, UCMJ, for minor offenses, without the intervention of a court-martial.

**NONPUNITIVE MEASURES**—Those leadership techniques, not a form of informal punishment, that may be used to further the efficiency of a command.

**OATH**—A formal external pledge, coupled with an appeal to the Supreme Being, that the truth will be stated.

**OBJECTION**—A declaration to the effect that the particular matter or thing under consideration is not done or admitted with the consent of the opposing party, but is by him or her considered improper or illegal, and referring the question of its propriety or legality to the court.

**OFFICE HOURS**—The term applied through tradition and usage in the Marine Corps to nonjudicial punishment.

**OFFICER**—Any commissioned or warrant officer of the armed forces, warrant officer W-1, and above.

**OFFICER IN CHARGE**—A member of the armed forces designated as such by appropriate authority.

**OFFICIAL RECORD**—A writing made as a record of a fact or event, whether the writing is in a regular series of records or consists of a report, finding, or certificate, and made by any person within the scope of his or her official duties provided those duties include a duty to know, or to ascertain through appropriate and trustworthy channels of information, the truth of the fact or event, and to record such fact or event.

**ON DUTY**—(As used in UCMJ, Article 112). In the exercise of duties of routine or detail, in garrison, at a station, or in the field; does not relate to those periods when, no duty being required of military personnel by order of regulations, they occupy the status of leisure known as “off duty” or “on liberty.”

**OPINION OF THE COURT**—A statement by a court of the decision reached in a particular case, expounding the law as applied to the case, and detailing the reasons upon which the decision is based.

**ORAL EVIDENCE**—The sworn testimony of a witness received at trial.

**OSVET**—A prior service veteran whose last tour of active duty was in a branch of service other than Navy, has been discharged or released more than 2 hours, and has completed a minimum of 180 consecutive days’ active duty.

**PAST RECOLLECTION RECORDED**—Memorandum prepared by a witness, or read by him or her and found to be correct, reciting facts or events that represent his or her past knowledge possessed at a time when his or her recollection was reasonably fresh as to the facts or events recorded.

**PER CURIAM**—“By the court”; a phrase used in the report of the opinion of a court to distinguish an opinion of the whole court from an opinion written by any one judge.

**PER SE**—Taken alone; in and of itself; inherently.

**PERPETRATOR**—One who actually commits the crime, either by his or her own hand, by an animate or inanimate agency, or by an innocent agent.

**PLEADING**—The written formal indictment by which an accused is charged with an offense; in military law, the charges and specifications.

**PLEAS**—The accused’s response to each charge and specification.

**POSSESSION**—Actual physical control and custody over an item of property.

**PREFERRAL OF CHARGES**—The formal accusation against an accused by an accuser signing and swearing to the charges and specifications.

**PREJUDICIAL ERROR**—An error of law that materially affects the substantial rights of the accused and requiring corrective action.

**PRELIMINARY INQUIRY**—The initial investigation of a reported or suspected violation of the UCMJ.

**PRESIDENT OF A COURT-MARTIAL**—The detailed senior member in rank present at the trial.

**PRESIDING OFFICER**—In a special court-martial without a military judge, it is the president of the court; in a court-martial with a military judge, the presiding officer is the military judge.

**PRESUMPTION**—A fact that the law requires the court to deduce from another factor facts shown by the state of the evidence unless that fact is overcome by other evidence before the court.

**PRETRIAL AGREEMENT**.—An agreement offering the accused to plead guilty to one or more specifications in exchange for a limit on some type of punishment.

**PRETRIAL INVESTIGATION**—An investigation pursuant to Article 32, UCMJ, that is required before convening a GCM, unless waived by the accused.

**PRIMA FACIE CASE**—Introduction of substantial evidence that, together with all proper inferences to be drawn therefrom and all applicable presumptions, reasonably tends to establish every essential element of an offense charged or included in any specification.

**PRINCIPAL**—(1) One who aids, abets, counsels, commands, or procures another to commit an offense that is subsequently perpetrated in consequence of such counsel, command, or procuring, whether the individual is present or absent at the commission of the offense; (2) the perpetrator.

**PRIOR ENLISTMENT OR PERIOD OF SERVICE**—Service in any component of the armed forces, including the Coast Guard, that culminated in the issuance of a discharge certificate or certificate of service.

**PROBABLE CAUSE**—(1) For apprehension, a reasonable grounds for believing that an offense has been committed and that the person apprehended committed it; (2) for pretrial restraint, reasonable grounds for believing that an offense was committed by the person being restrained; and (3) for search, a reasonable grounds for believing that items connected with criminal activity are located in the place or on the person to be searched.

**PROCESSING COMMAND**—The parent command to which a member is permanently assigned has primary responsibility for administrative processing.

**PROVOKING**—Tending to incite, irritate, or enrage another.

**PROXIMATE CAUSE**—That which, in natural and continuous sequence, unbroken by an efficient intervening cause, produces a result, and without which the result would not have occurred.

**PROXIMATE RESULT**—A reasonably foreseeable result ordinarily following from the lack of care complained of, unbroken by any independent cause.

**PUNITIVE ARTICLES**—Articles 78 and 80 through 134, UCMJ, that generally describe various crimes and offenses and state how they may be punished.

**PUNITIVE DISCHARGE**—A discharge imposed as punishment by a court-martial, either a bad-conduct discharge or a dishonorable discharge.

**QUALIFIED COUNSEL**—Counsel qualified under Article 27(b), UCMJ, and who does not have any direct responsibility for advising the convening authority or separation authority on the proceedings involving the respondent.

**RAPE**—An act of sexual intercourse with a female, not the accused's wife, done by force and without her consent.

**REAL EVIDENCE**—Any physical object offered into evidence at trial.

**RECESS**—A short period of time during which a trial is not in progress.

**RECKLESSNESS**—An act or omission exhibiting a culpable disregard for the foreseeable consequences of that act or omission; a degree of carelessness greater than simple negligence.

**RECONSIDERATION**—The action of the convening authority in returning the record of trial to the court for renewed consideration of a ruling of the court dismissing a specification on motion, where the ruling of the court does not amount to a finding of not guilty.

**REFERRAL OF CHARGES**—The action of a convening authority in directing that a particular case be tried by a particular court-martial previously created.

**RELEASE FROM ACTIVE DUTY**—Termination of active duty status and transfer or reversion to a

Reserve component not on active duty including transfer to the Individual Ready Reserve.

**RELEVANCY**—That quality of evidence that renders it properly applicable in proving or disproving any matter in issues; a tendency in logic to prove or disprove a fact that is in issue in the case.

**REMEDIAL ACTION**—Action taken by proper reviewing authorities to correct an error or errors in the proceedings or to offset the adverse impact of an error.

**REMISSION**—Action by proper authority interrupting the execution of a punishment and canceling out the punishment remaining to be served, while not restoring any right, privilege, or property already affected by the executed portion of the punishment.

**REPROACHFUL**—Censuring, blaming, discrediting, or disgracing of another's life or character.

**RESISTING APPREHENSION**—An active resistance to the restraint attempted to be imposed by the person apprehending.

**RESPONDENT**—A member who has been notified that action has been initiated to separate the member.

**RESTRICTION**—Moral restraint imposed as punishment, or pretrial restraint upon a person by oral or written orders limiting him or her to specified areas of a military command, with the further provision that he or she will participate in all military duties and activities of his or her organization while under such restriction.

**REVISION**—A procedure to correct an apparent error or omission or improper or inconsistent action of a court-martial with respect to a finding or a sentence.

**SEARCH**—A quest for incriminating evidence.

**SEIZURE**—To take possession of forcibly, to grasp, to snatch, or to put into possession.

**SELF-DEFENSE**—The use of reasonable force to defend oneself against immediate bodily harm threatened by the unlawful act of another.

**SELF-INCRIMINATION**—The giving of evidence against oneself that tends to establish guilt of an offense.

**SENTENCE**—The punishment awarded an accused who is found guilty of an offense by a court-martial.

**SEPARATION**—A general term that includes discharge, release from active duty, transfer to the

Fleet Reserve or Retired List, release from custody and control of the military services, transfer to the Individual Ready Reserve, and similar changes in active or Reserve status.

**SEPARATION AUTHORITY**—Chief of Naval Personnel is authorized to take final action with respect to the specified types of separation, or any officer so designated by the Chief of Naval Operations. The Secretary of the Navy is separation authority for release from active duty of member of the Reserve components who are within 2 years of eligibility for retirement or retainer pay. The separation authority for active duty members being involuntarily separated who have 18 years or more service is the Chief of Naval Operations.

**SERIOUS OFFENSE**—Offenses under the UCMJ for which a punitive discharge is authorized by the *Manual for Courts-Martial*.

**SET ASIDE**—Action by proper authority voiding the proceedings and the punishment awarded and restoring all rights, privileges, and property lost by virtue of the punishment imposed.

**SIMPLE NEGLIGENCE**—The absence of due care; for example, an actor omission by a person who is under a duty to use due care that exhibits a lack of that degree of care for the safety of others that a reasonably prudent man would have exercised under the same or similar circumstances.

**SLIP LAW**—The first officially published form of congressional legislation. The main purpose of a slip law publication is speed. Slip law is normally available long before bound volumes containing the legislation are published and disseminated.

**SOLICITATION**—Any statement, oral or written, or any other act or conduct, either directly or through others, that may reasonably be construed as a serious request or advice to commit a criminal offense.

**SPECIAL COURT-MARTIAL**—The intermediate of the three types of court-martial.

**SPECIFICATION**—A formal statement of specific acts and circumstances relied upon as constituting the offense charged.

**SPONTANEOUS EXCLAMATION**—An utterance concerning the circumstances of a startling event made by a person while he or she was in such a condition of excitement, shock, or surprise, caused by his or her participation in or observation of the

event, as to warrant a reasonable inference that he or she made the utterance as an impulsive and instinctive outcome of the event, and not as a result of deliberation or design.

**STAFF JUDGE ADVOCATE**—A certified military lawyer attached to the staff of a convening or supervisory authority who exercises general court-martial jurisdiction.

**STATUTE OF LIMITATIONS**—The rule of law that, unless waived, establishes the time within which an accused must be charged with an offense to be tried successfully.

**STIPULATION**—An agreement between the trial and defense counsel, to which the accused agrees, as to the existence or nonexistence of any fact or the content of the testimony that an absent witness would give if he or she were present in the proceedings.

**STRAGGLE**—To wander away, to rove, to stray, to become separated from, or to lag or linger behind.

**STRIKE**—To deliver a blow with anything by which a blow can be given.

**SUBPOENA**—A formal written instrument or legal process that serves to summon a witness to appear before a certain tribunal and to give testimony.

**SUBPOENA DUCES TECUM**—A formal written instrument or legal process that commands a witness who has in his or her possession or control some documents or evidentiary object that is pertinent to the issues of a pending controversy to produce it before a certain tribunal.

**SUBSCRIBE**—To write one's signature on a written instrument as an indication of consent, approval, or attestation.

**SUBSTANTIVE LAW**—That portion of the body of law that contains rights and duties and regulation of the government.

**SUMMARY COURT-MARTIAL**—The lowest of the three types of court-martial.

**SUPERIOR COMMISSIONED OFFICER**—A commissioned officer who is superior in rank or command.

**SUPERVISORY AUTHORITY**—An officer exercising general court-martial jurisdiction who acts as reviewing authority for SCM and SPCM records after the convening authority has acted.



**SUSPECT**—A person who is suspected of a crime but who has not been formally charged with its commission by the preferral of charges.

**SUSPENSION**—Action by proper authority to withhold the execution of a punishment for a probationary period pending good behavior on the part of the accused.

**TESTIMONY**—Statements made by a witness, under oath, before a court or hearing.

**THREAT**—An avowed present determination or intent to injure the person, property, or reputation of another presently or in the future.

**TOLL**—To suspend or interrupt the running of.

**TORT**—A private civil wrong or injury committed against a person or property and is independent of any contract.

**TRIAL COUNSEL**—The person who prosecutes a case in the name of the government.

**TRUE OWNER**—The person who, at the time of the taking, obtaining, or withholding of property, had the superior right to possession of the property involved in the light of all conflicting interests therein involved in the particular case.

**TYPE WARRANTED BY SERVICE RECORD DISCHARGE**—Characterization of service is determined by the final average in performance and conduct marks and the final average of the marks in personal behavior.

**USAGE**—A general habit, mode, or course of procedure.

**UTTER**—To make any use of, or attempt to make any use of, an instrument known to be false by representing, by words or actions, that it is genuine.

**VERBATIM**—In the exact words, word for word.

**VOIR DIRE**—Preliminary examination of court members to determine their competency to sit on the court.

**WAIVER**—A voluntary or intentional giving up of a known right.

**WANTON**—Behavior of such a highly dangerous and inexcusable character as to exhibit a callous indifference or total disregard for the probable consequences to the personal safety or property of other persons; heedlessness.

**WILLFUL**—Deliberate, voluntary, and intentional, as distinguished from acts committed through inadvertence, accident, or ordinary negligence.



# INDEX

## A

Abbreviations, 3-7

Action by the convening authority, 8-6

Administrative board, 9-18

- action by the convening authority, 9-23

- action by the separation authority, 9-24

- appointing order, 9-19

- convening authority, 9-19

- hearing procedure, 9-21

- legal advisor, 9-20

- president of the board, 9-19

- processing goals, 9-23

- record of proceedings, 9-23

- recorder, 9-20

- reporter, 9-21

- witness request, 9-21

Administrative discharge warnings, 9-14

Administrative procedures, 14-2

Administrative separations, 9-1

- administrative board procedure, 9-18

- bases for, 9-2

- in lieu of trial by court-martial, 9-13

- notification procedure, 9-15

- processing goals, 9-23

- types of, 9-1

Admiralty Claims, 12-23

- admiralty law defined, 12-23

- exclusions from liability, 12-24

- measure of damages, 12-24

- processing procedures, 12-24

- scope of liability, 12-24

- statute of limitations, 12-24

- statutory authority and references, 12-23

Admonition and reprimand, 5-24

Alcohol abuse rehabilitation failure, 9-11

Amending orders, 6-7

Appeals, 5-29

Appellate leave, 8-20

Appointing orders, 9-19, 13-3

Arrest in quarters, 5-24

Article 14, UCMJ, 10-8

Article 32, investigation, 7-21

- appointing order, 7-22, 7-23

- Article 34 advice, 7-28

- investigating officer, 7-22

- Investigating Officer's Report, DD Form 457, 2-26, 7-25

- nature of the pretrial investigation, 7-21

- rules of evidence, 7-24

- statements, 7-24

- testimony, 7-24

- witnesses, 7-22

Article 139, UCMJ, claims, 12-26

- exclusions from liability, 12-27

- measure of damages, 12-27

- processing procedures, 12-27

- proper claimants, 12-27

- relationship to court-martial proceedings, 12-28

- scope of liability, 12-26

- statute of limitations, 12-27

Attorney-client relations, 11-3

## B

Board for Correction of Naval Records, 9-24

## C

Captain's mast guide, 5-19

Charge Sheet, DD Form 458, 6-1

Civilian personnel management, 14-4

- Claims, 12-1
- Claims management, 12-34
  - Allotment/Suballotment Authorization, NAVCOMPT Form 372, 12-35
  - deposits, 12-37
  - fund authorizations, 12-34
  - funds administration, 12-2-38
  - memorandum accounting logbook, 12-40
  - Navy claims funds, 12-34
  - payments, 12-35
  - reconciliation, 12-38
  - reports, 12-41
  - Trial Balance Report, NAVCOMPT Form 2199A, 12-39
  - unliquidated obligations, 12-40
  - Voucher for Disbursement and/or Collection, NAVCOMPT Form 2277, 12-37
  - Voucher for Payment Under Federal Tort Claims Act, Standard Form 1145, 12-36
- Classified material, information, 1-10
- Cleansing warnings, 4-3
- Clemency, 8-10
  - Naval Clemency and Parole Board, 8-34
- Confinement, 5-19
  - deferment of, 8-2
  - pretrial review, 6-34
- Confinement on bread and water or diminished rations, 5-23, 5-25, 7-19
- Contempt proceedings, 3-18
- Convenience of the government, 9-5
- Convening and amending orders, 6-7, 7-2, 9-19, 13-3
- Convening authority's review, 8-5
  - action by the convening authority, 8-6
  - DC's acknowledgement of receipt of SJA recommendation, 8-10
  - DC's response to SJA recommendation, 8-10
  - matters submitted by the accused, 8-5
- Convening authority's review—Continued
  - memorandum forwarding SJA recommendations to DC, 8-9
  - recommendation of the SJA or legal officer, 8-6
- Correctional custody, 5-25
- Correspondence, 1-1, 14-3
  - business letter, 1-2
  - drafting, 1-3
  - endorsement, 1-2
  - filing, 1-3
  - memorandum, 1-2
  - message, 1-2
  - multiple-address letter, 1-2
  - preparation, 1-1
  - routing, 1-3
  - standard letter, 1-2
  - subject classification, 1-3
- Counseling, 9-14
  - drafting administrative discharge warnings, 9-14
- Court-martial member's question form, 6-29
- Court of Military Appeals (COMA) review, 8-32
- Court reporter, 3-1
  - appointment and detailing of, 3-1
  - duties of, 3-2
  - functions of, 3-1
  - oaths, 3-2
- Court reporting, 3-1
  - contempt proceedings, 3-18
  - loss of recordings, 3-3
  - methods and equipment, 3-4
  - reporter's log, 3-4
  - retention of trial notes, 3-4
  - verbatim reporting, 3-2
- Courts-martial review, 8-31
  - appellate leave, 8-20
  - COMA review, 8-32

## Courts-martial review—Continued

convening authority's review, 8-5

JAG review, 8-31

NMCMR review, 8-31

OEGCMJ SJA review, 8-30

U.S. Supreme Court review, 8-32

waiver or withdrawal of appellate review, 8-20

## Courts of Inquiry and Investigations Required to Conduct a Hearing, 13-17

parties, 13-15

use of the record of investigation, 13-18

Customer service, 14-9

## **D**

Death cases, 13-2

Defective enlistment, 9-8

Delivery agreements, 10-4, 10-5

to federal authorities, 10-4

to foreign authorities, 10-4

to state authorities, 10-4

Delivery of personnel, 10-1

Article 14, UCMJ, 10-8

beyond territorial limits of requesting state, 10-1

circumstances in which delivery is refused, 10-4

delivery agreements, 10-4, 10-5

fugitive warrants, 10-2

members released on bail or own recognizance, 10-6

personnel stationed outside the United States, 10-2

persons requested by state authorities in criminal cases, 10-1

prisoner requests, 10-8

report required when delivery is refused, 10-6, 10-7

service member serving sentence of a state court, 10-8

service member serving sentence of court-martial, 10-6

state requests, 10-8

## Delivery of personnel—Continued

waiver of extradition, 10-2, 10-3

within territorial limits of requesting state, 10-1

Depositions, 3-22

procedures for taking, 3-29

types of, 3-22

Directives, 1-3

change transmittals, 1-7

Directives Issuance System, 1-6

drafting of, 1-7

filing, 1-7

instructions, 1-6

notices, 1-6

Drafting administrative discharge warnings, 9-14

Drug abuse detection, 4-22

collection process, 4-25

general guidance, 4-22

types of tests, 4-22

urinalysis consent form, 4-23

use of urinalysis results, 4-24

Drug abuse rehabilitation failure, 9-10

Drug detector dogs, 4-20

## **E**

Entry level performance and conduct, 9-9

Erroneous enlistment, 9-8

Evidence, 6-35

Executive officer's screening, 5-12

Exhibits, 3-11

Expanded Legal Assistance Program, 11-6

Expiration of enlistment or fulfillment of service obligation or EAOS, 9-5

Extra duty, 5-24

## **F**

Fair Debt Collection Practices Act, 14-5

Federal Claims Collection Act, 12-29

government's rights, 12-29

measure of damages, 12-29

processing procedures, 12-29

statute of limitations, 12-29

Federal Legal Information Through Electronics  
(FLITE), 2-18

Federal Tort Claims Act, 12-1

Claim for Damage, Injury, or Death, Standard Form  
95, 12-6, 12-7

exclusions from liability, 12-3

measure of damages, 12-5

processing procedures, 12-6

scope of liability, 12-1

statute of limitations, 12-6

Federal Truth in Lending Act, 14-5

Fifth Amendment rights, 4-1

Files, 1-7

disposal of, 1-8

maintenance of, 1-8

Finding tools, 2-1

Findings, 3-13

Findings worksheet, 3-3, 6-26

Foreign Claims Act, 12-21

exclusions from liability, 12-22

measure of damages, 12-23

processing procedures, 12-23

scope of liability, 12-22

statute of limitations, 12-23

Fraudulent entry into the naval service, 9-9

Freedom of Information Act, 1-11

exemptions, 1-13

identifying records, 1-12

mailing lists, 1-13

minimum requirements, 1-12

NJP results, 1-13

privacy interest, 1-13

Freedom of Information Act—Continued

public interest, 1-13

records requiring special handling, 1-12

time limits, 1-13

Fugitive warrants, 10-2

Fund authorizations, 12-34

## **G**

General administration, 1-1

General court-martial (GCM), 7-21, 7-30

trial procedures, 7-30

Grants of immunity, 6-16

sample order to testify, 6-20

sample testimonial grant of immunity, 6-19

sample transactional grant of immunity, 6-18

## **H**

Homosexuality, 9-10

## **I**

Indebtedness, 14-5

administrative and disciplinary action, 14-8

correspondence with the creditor, 14-6

Fair Debt Collection Practices Act, 14-5-5

Federal Truth in Lending Act, 14-5

policy, 14-5

processing of complaints, 14-5

referral to service member debtor, 14-6

Individual military counsel, 6-21

Investigation not requiring a hearing, 13-3

action by the convening and reviewing authorities,  
13-10

appointing order, 13-3

communication with the convening authority,  
13-8

copies and forwarding, 13-14

disciplinary action, 13-14

investigative body, 13-3

Investigation not requiring a hearing—Continued

- investigative procedures, 13-6
- investigative report, 13-8
- releasing investigations, 13-15
- witnesses, 13-8

Investigations, 13-1

- investigations required by other regulations, 13-2
- selection of fact-finding bodies, 13-18
- special incidents, 13-22

**J**

JAG Manual Investigations, 13-1

Judge Advocate General Management Information System (JAGMIS), 1-9

- productivity report, 1-9

Jury duty, 10-11

**L**

Law library, 2-1

- Field Law Library Section, OJAG, 2-6
- finding tools, 2-1
- minimum requirements, 2-3
- primary sources, 2-1
- secondary sources, 2-1
- sources of the law, 2-1
- standard minimum list, 2-4

Law library maintenance, 2-8

- accountability, 2-11
- arrangement, 2-8
- filing, 2-10
- ordering materials, 2-12
- reports, 2-13

Legal assistance, 11-1

- attorney-client relations, 11-3
- attorneys, 11-1
- confidential and privileged character of service provided, 11-2
- cooperation with other Navy agencies, 11-8

Legal assistance—Continued

- files, 11-9
- functions of legal assistance attorneys, 11-2
- legal assistance services, 11-5
- liaison with other government agencies, 11-7
- limitations on scope of services, 11-5
- nonlawyer personnel, 11-1
- persons eligible for assistance, 11-1
- policy, 11-1
- preventive law program, 11-7
- purpose, 11-1
- records, 11-8
- referrals and fees, 11-6
- reports, 11-9

Legal research, 2-14

- court decisions, 2-17
- Federal Legal Information Through Electronics (FLITE), 2-18
- finding tools, 2-1, 2-15
- primary sources, 2-1, 2-14
- secondary sources, 2-1, 2-16
- statutes, 2-16

Letters of censure, 5-34, 7-17, 7-19

Line of duty/misconduct determinations, 13-19

- action by reviewing authorities, 13-22
- forwarding, 13-22
- recording, 13-21
- relationship between, 13-21
- what constitutes line of duty, 13-19
- what constitutes misconduct, 13-20
- when determinations are required, 13-19

**M**

Matters submitted by the accused, 8-5

Medical Care Recovery Act, 12-30

- government's rights, 12-30
- measure of damages, 12-30

## Medical Care Recovery Act—Continued

medical payments insurance coverage, 12-33

no-fault statutes, 12-34

processing procedures, 12-30

Report of Hospital and Medical Care—Third Party Liability, NAVJAG Form 5890/12, 12-32, 12-33

statute of limitations, 12-30

uninsured motorist coverage, 12-34

## Memorandum accounting logbook, 12-40

## Military Claims Act, 12-11

exclusions from liability, 12-12

measure of damages, 12-12

processing procedures, 12-13

scope of liability, 12-11

statute of limitations, 12-13

## Military Personnel and Civilian Employees Claims Act, 12-15

Claim for Loss of or Damage to Personal Property Incident to Service, DD Form 1842, 12-17, 12-18

exclusions from liability, 12-15

List of Property and Claims Analysis Chart, DD Form 1844, 12-19

measure of damages, 12-16

Notice of Loss or Damage, DD Form 1840R, 12-20

processing procedures, 12-17

scope of liability, 12-15

statute of limitations, 12-16

## Minority, 9-9

## Misconduct, 9-11

## Misconduct due to drug abuse, 9-12

## N

## Naval Clemency and Parole Board, 8-34

## Naval Discharge Review Board, 9-24

## Naval legal service offices, 14-1

## Navy claims funds, 12-34

## Nonjudicial punishment (NJP), 5-1

accused's acknowledgement of appellate rights, 5-29

appeals, 5-29

captain's mast guide, 5-19

checklist for report chit/NJP processing, 5-46

clemency and corrective action on review, 5-26

combination of punishments, 5-26

confinement on bread and water or diminished rations, 5-25

enlisted service record entries, 5-35

execution of punishments, 5-25

executive officer's screening, 5-12

hearing requirements, 5-19

limitations on punishment, 5-22, 5-23

log entries, 5-45

offenses punishable under Article 15, UCMJ, 5-3

persons on whom NJP maybe imposed, 5-2

possible actions by the CO at mast, 5-22

preheating advice, 5-11

preheating rights forms, 5-13, 5-15, 5-17

preliminary inquiry, 5-5

Preliminary Inquiry Officer's Report, 5-8

report and disposition of offense(s), 5-4

Report and Disposition of Offense(s), NAVPERS Form 1626/7, 5-6, 5-7

sample action by supervisory authority on NJP appeal, 5-33

sample first endorsement to NJP appeal, 5-32

sample letter of notification to set aside NJP, 5-27

sample NJP appeal, 5-31

Suspect's Rights Acknowledgement/Statement, 5-9, 5-10

unit punishment book, 5-45

who may impose, 5-1

## Nonlawyer personnel, 11-1

## Nonscope claims, 12-25

exclusions from liability, 12-25



Nonscope claims—Continued

measure of damages, 12-25

processing procedures, 12-25

scope of liability, 12-25

statute of limitations, 12-25

Notification procedure, 9-15

**O**

Oaths, 3-2

Office manager, 14-2

Office organization and management, 14-1

assigning personnel, 14-2

civilian personnel management, 14-4

correspondence and directives, 14-3

training, 14-3

**P**

Parties, 13-15

Performance appraisals, 14-4

Physical disability, 9-8

Position descriptions, 14-4

Posttrial duties, 8-1

Confinement Order, NAVPERS 1640/4, 8-1

deferment of confinement, 8-2

extra duty, 8-4

report of results of trial, 8-1

restriction, 8-4

Preferral of charges, 7-3

Preinterrogation warnings, 4-1

Article 31, UCMJ, 4-1,5-9

cleansing warnings, 4-3

consequences of violating the rights against  
self-incrimination, 4-7

factors affecting voluntariness, 4-6

Fifth Amendment rights, 4-1

how to give the warnings, 4-7

right to counsel, 4-5

Preinterrogation warnings—Continued

right to terminate the interrogation, 4-6

Pretrial agreements, 6-12

Pretrial paper work, 6-1

court-martial member's question form, 6-29

findings worksheet, 3-3, 6-26

flyers, 6-26

seating chart, 6-29

sentence worksheet, 6-28

Pretrial restraint, 6-29

arrest, 6-31

conditions on liberty, 6-31

confinement, 6-33

restriction, 6-31

sample letter to initial review officer, 6-36

Preventive law program, 11-7

Primary sources, 2-1

Privacy Act, 1-13

collection of information, 1-15

disclosure to others, 1-14

procedures, 1-14

responsibilities, 1-14

Proceedings in revision, 3-20

Processing goals, 9-23

Promulgating orders, 8-11

Publications, 1-3

maintenance of, 1-5

ordering of, 1-6

use of, 1-4

**R**

Reconciliation, 12-38

Record of Authorization for Search, 4-14

Recorder, 9-20

Records disposal, 1-9

Records of trial, 3-15

authentication of, 3-16

## Records of trial—Continued

- certification of correction, 3-19, 3-21
- copies and distribution, 3-15
- correction of, 3-16
- distribution of, 3-15, 3-17
- general content and arrangement, 3-15
- proceedings in revision, 3-20
- security classification, 3-15
- service of, 3-16
- summarized record of trial, 3-17
- summary court-martial records, 3-20
- types, 3-15

Reduction in grade, 5-23, 7-17, 7-19

Referral of charges, 7-3

Refusal to deliver, 10-6, 10-7

Release of information for litigation purposes, 1-15

- production of official records without a court order, 1-15

- relationship with FOIA and Privacy Act, 1-15

- responsibilities, 1-15

Report and disposition of offense(s), 5-4

Report of results of trial, 8-1

Reporters, 3-1, 9-21

Reporter's log, 3-4

Reports Control System, 1-8

- establishment of, 1-8

- tiling, 1-9

- maintenance of, 1-8

- reports, 1-9

- tickler file, 1-8

Requests for release of government information, 1-11

- Freedom of Information Act, 1-11

- litigation purposes, 1-15

- Privacy Act, 1-13

Restriction, 5-24, 8-4

Review of courts-martial, 8-5

## S

Search and seizure, 4-8

- categories of searches, 4-10

- inspections and inventories, 4-21

- language of the law of search and seizure, 4-9

- objects of a search or seizure, 4-10

- Record of Authorization for Search, 4-14

- sources of the law of search and seizure, 4-9

- use of drug detector dogs, 4-20

Secondary sources, 2-1

Security, 1-10

- destruction of classified material, 1-11

- purpose, 1-10

- responsibility, maintenance, and safeguarding, 1-10

Sentence worksheet, 6-28

Sentences, 7-17

Separation in lieu of trial by court-martial, 9-13

Service of process, 10-9

- overseas, 10-9

- service not allowed, 10-9

- within the United States, 10-9

SJA's recommendation, 8-6

Sources of the law, 2-1

Special court-martial (SPCM), 7-9

- composition of, 7-12

- creation of, 7-9

- punishment chart, 7-19

- punishments, 7-17

- qualifications of counsel, 7-13

- qualifications of members, 7-12

- qualifications of the military judge, 7-13

- records of trial, 3-15

- referral of charges, 7-13

- trial procedure, 7-14

Standard minimum list, 2-4

Standard stock entries (SSEs), 3-10

Subpoenas, 10-10

action with no federal government interest, 10-10

witness is a prisoner, 10-10

witness on behalf of accused in federal court, 10-10

witness on behalf of party to civil action or state criminal, 10-10

witness on behalf of the federal government, 10-10

Summarized record of trial, 3-17

Summary court-martial (SCM), 7-1

creation of, 7-1

distribution of, 3-22

posttrial responsibilities of the SCM, 7-9

preferral and referral of charges, 7-2

pretrial preparation, 7-4

record of trial, 3-20, 7-10

Summary Court-Martial Acknowledgement of Rights and Waiver, 7-6

trial proceedings, 7-8

Suspect's Rights Acknowledgement/Statement, 5-9, 5-10

Suspension of punishment, 5-28

**T**

Tickler file, 1-8

Training, 14-3

Transcription, 3-4

abbreviations, 3-7

grammar and punctuation, 3-7

identification of speakers, 3-8

Transcription—Continued

margins, 3-4

marking exhibits, 3-11

numbering pages, 3-7

reporter's remarks, 3-9

sample pleas and findings, 3-12

slips of the tongue, false starts, 3-9

standard stock entries (SSEs), 3-10

Trial notes, 3-4

**U**

Uninsured motorist coverage, 12-34

Unit punishment book, 5-45

Unsatisfactory performance, 9-10

Unsatisfactory performance in the Ready Reserve, 9-13

Urinalysis, 4-22

**V**

Vacation of suspension, 8-33

**W**

Warrant of attachment, 6-23

Waiver of Extradition, 10-2, 10-3

Weight control failure, 9-8

Witnesses, 6-22

civilian, 6-23

military, 6-22

Subpoena, DD Form 453, 6-23

Travel Order, DD Form 453-1, 6-23

